

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

**JACKIE KENDRICK,
KAREN GREEN and
LARRY SMITH,**

Defendants.

8:05CR176

ORDER

This matter is before the court on the motions for an extension of time by defendant Larry Smith (Smith) (Filing Nos. 25 and 27). Smith seeks an extension of time to June 7, 2005, in which to file pretrial motions pursuant to paragraph 3 of the progression order (Filing No. 19). Defense counsel represents to the court that counsel for the government has no objection to the extension. Smith has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Smith consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 26). The motion, Filing No. 25, was filed in error and will be stricken. Upon consideration, Filing No. 27 will be granted.

IT IS ORDERED:

1. Filing No. 25 is stricken from the record.
2. Defendant Smith's motion for an extension of time (Filing No. 27) is granted. Defendant Smith is given until **on or before June 7, 2005**, in which to file pretrial motions pursuant to the progression order (Filing No. 19). The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **May 19, 2005 and June 7, 2005**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).
3. The tentative setting of an evidentiary hearing for 9:00 a.m. on May 26, 2005, is **canceled** and will be re-scheduled in the event any pretrial motions are filed in accordance with this order.

DATED this 19th day of May, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge